

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

THE ARMOR ALL/STP PRODUCTS	§	
CO.	§	
	§	CIVIL ACTION NO. 6:15cv781
vs.	§	
	§	
AEROSPACE COMMUNICATIONS	§	
HOLDINGS CO., LTD.	§	

**ORDER ADOPTING REPORT AND
RECOMMENDATION OF THE UNITED
STATES MAGISTRATE JUDGE**

The Report and Recommendation of the Magistrate Judge, which contains her findings, conclusions, and recommendation for the disposition of this action, has been presented for consideration. The Report and Recommendation (ECF 123) recommends that Defendant’s Motion to Dismiss or, in the Alternative, Motion to Transfer to the Northern District of Alabama (ECF 29) be denied. Defendant filed an Amended Objection to and Request for Reconsideration of the Report and Recommendation Denying Defendant’s Motion to Transfer Venue (ECF 136) on June 27, 2016.

Having made a *de novo* review of the objections filed by Defendant, the Court finds that the findings, conclusions and recommendation of the Magistrate Judge are correct and Defendant’s objection is without merit. Defendant only objects to the denial of the motion in the alternative to transfer venue. Defendant asserts that the Report and Recommendation fails to consider facts that occurred after briefing ended—namely, that the original plaintiff in this lawsuit, IDQ Operating, Inc., transferred its patent rights to Armor All. On July 5, 2016, the Court granted Plaintiff’s motion to substitute The Armor All/STP Products Co. (“Armor All”) as


the plaintiff in this case. Defendant submits that the transfer to Armor All affects the relative ease of access to sources of proof. As the Court noted in the Report and Recommendation, however, neither party's documents are located in the Eastern District of Texas. Moreover, the motion is to be decided based on the facts as they existed when suit was instituted. *In re EMC*, 501 Fed.Appx. 973, 976 (Fed. Cir. 2015). Defendant's remaining assertions are fully addressed in the Report and Recommendation. Defendant has not shown that the Northern District of Alabama is a clearly more convenient forum.

To the extent Defendant is also seeking reconsideration pursuant to FED. R. CIV. P. 72, Defendant has not shown that the order denying the alternative motion to transfer is clearly erroneous or contrary to law. It is

ORDERED that Defendant's objection is **OVERRULED**. Defendant's Motion to Dismiss or, in the Alternative, Motion to Transfer to the Northern District of Alabama (ECF 29) is **DENIED**.

So Ordered this

Sep 21, 2016



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE